

AMENDED IN ASSEMBLY MARCH 30, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1922

Introduced by Assembly Member Firestone

February 17, 1998

~~An act to repeal and add Section 387 of the Penal Code, relating to corporate criminal liability. An act to amend Section 96 of, and to add Section 96.5 to, the Penal Code, relating to obstruction of justice.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1922, as amended, Firestone. ~~Corporate criminal law~~
Obstruction of justice: judicial officials.

Under existing law, a juror, or person summoned as a juror, or chosen arbitrator or umpire, or appointed referee, who either makes a promise or agreement to give a verdict or decision for or against any party, or willfully and corruptly permits any communication to be made to him or her, or receives any book, paper, instrument, or information relating to any cause or matter pending before him or her, except according to the regular course of proceedings, is punishable by a specified fine or imprisonment.

This bill would apply these criminal penalties to a judicial officer and court commissioner and would expand the crime with respect to all applicable parties to include solicitation of communications and the specified information. The bill also would add provisions that would make it a crime with specified criminal penalties for any person, to knowingly

pervert or obstruct justice or the due administration of laws. The bill additionally would impose greater penalties for these actions where committed by a judicial officer, court commissioner, referee, arbitrator, or umpire, or any person authorized by law to hear or determine any question or controversy. By creating new crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law provides that a corporation, limited liability company, or person who is a manager with respect to a product, facility, equipment, process, place of employment, or business practice, is guilty of a misdemeanor or felony, if the corporation, limited liability company, or manager has actual knowledge of a serious concealed danger that is subject to the regulatory authority of an appropriate agency and is associated with that product or a component of that product or business practice and knowingly fails, within 15 days of acquiring the actual knowledge or immediately if there is imminent risk of great bodily harm or death, to inform the Division of Occupational Safety and Health and warn its affected employees, as specified.~~

~~This bill would revise and recast this provision to redefine the terms used.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. This act shall be known and may be cited~~
- 2 *SECTION 1. Section 96 of the Penal Code is amended*
- 3 *to read:*
- 4 96. Every juror, *judicial officer, court commissioner,*
- 5 *or person drawn or summoned as a juror, or chosen*
- 6 *arbitrator or umpire, or appointed referee, except*
- 7 *pursuant to the regular course of proceedings, who*

1 either: ~~One—Makes~~ (a) makes any promise or agreement
2 to give a verdict or decision for or against any party; or,
3 ~~Two—Willfully~~ (b) willfully and corruptly solicits or
4 permits any communication to be made to him or her, or
5 solicits or receives any book, paper, instrument, or
6 information relating to any cause or matter pending
7 before him or her, ~~except according to the regular course~~
8 ~~of proceedings~~, is punishable by fine not exceeding ten
9 thousand dollars (\$10,000), or by imprisonment in the
10 state prison.

11 SEC. 2. Section 96.5 is added to the Penal Code to
12 read:

13 96.5. (a) Every person who commits any act that he
14 or she knows, or should have known, perverts or obstructs
15 justice or the due administration of laws shall be punished
16 by a fine not exceeding ten thousand dollars (\$10,000), or
17 by imprisonment in the state prison, in a county jail not
18 exceeding one year, or by both that fine and
19 imprisonment.

20 (b) Every judicial officer, court commissioner,
21 referee, arbitrator, or umpire, or any person authorized
22 by law to hear or determine any question or controversy,
23 who commits any act that he or she knows, or should have
24 known, perverts or obstructs justice or the due
25 administration of the laws, is guilty of a felony punishable
26 by two, three, or four years in the state prison.

27 (c) Nothing in this section prohibits prosecution under
28 any other law.

29 SEC. 3. No reimbursement is required by this act
30 pursuant to Section 6 of Article XIII B of the California
31 Constitution because the only costs that may be incurred
32 by a local agency or school district will be incurred
33 because this act creates a new crime or infraction,
34 eliminates a crime or infraction, or changes the penalty
35 for a crime or infraction, within the meaning of Section
36 17556 of the Government Code, or changes the definition
37 of a crime within the meaning of Section 6 of Article
38 XIII B of the California Constitution.

39 Notwithstanding Section 17580 of the Government
40 Code, unless otherwise specified, the provisions of this act

1 *shall become operative on the same date that the act*
2 *takes effect pursuant to the California Constitution.*

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**All matter omitted in this version of the
bill appears in the bill as introduced in the
Assembly, February 17, 1998 (JR 11)**

